

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Norbert Dumler  
 Application No.: 10/656,505  
 Filed: September 8, 2003  
 For: CONTAINER AND APPLICATION UNIT



Art Unit: 3751  
 Examiner: D. J. WALCZAK  
 Washington, D.C.  
 Atty.'s Docket: DUMLER29  
 Date: June 9, 2005  
Confirmation No. 8344

THE COMMISSIONER OF PATENTS  
 U.S. Patent and Trademark Office  
 Customer Service Window  
 Randolph Building, Mail Stop Amendment  
 401 Dulany Street  
 Alexandria, VA 22314

Sir:

Transmitted herewith is a [XX] REPLY: RESTRICTION REQUIREMENT in the above-identified application.

- [ ] Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.  
 [XX] No additional fee is required.  
 [ ] The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	*	MINUS	** 20	0	x 25	\$		x 50	\$
INDEP.	*	MINUS	*** 3	0	x 100	\$		x 200	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 180	\$		+ 360	\$
					ADDITIONAL FEE TOTAL		\$	OR	TOTAL
									\$

- .. If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 .. If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.  
 \*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

- [XX] Conditional Petition for Extension of Time  
 If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

- [ ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity  
 Response Filed Within  
 [ ] First - \$ 60.00  
 [ ] Second - \$ 225.00  
 [ ] Third - \$ 510.00  
 [ ] Fourth - \$ 795.00  
 Month After Time Period Set

Other Than Small Entity  
 Response Filed Within  
 [ ] First - \$ 120.00  
 [ ] Second - \$ 450.00  
 [ ] Third - \$ 1020.00  
 [ ] Fourth - \$ 1590.00  
 Month After Time Period Set

- [ ] Less fees (\$ ) already paid for \_\_\_ month(s) extension of time on \_\_\_\_\_.  
 [ ] Please charge my Deposit Account No. 02-4035 in the amount of \$ \_\_\_\_\_.  
 [ ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ \_\_\_\_\_.  
 [ ] A check in the amount of \$ \_\_\_\_\_ is attached (check no. ).  
 [XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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By:   
 Norman J. Latker  
 Registration No. 19,963



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: DUMLER=29

In re Application of:	)	Conf. No.: 8344
	)	
Norbert DUMLER	)	Art Unit: 3751
	)	
Appln. No.: 10/656,505	)	Examiner: David WALCZAK
	)	
Date Filed or 102(e) date:	)	
September 8, 2003	)	Washington, D.C.
	)	
For: CONTAINER AND APPLICATOR...	)	June 9, 2005

REPLY TO RESTRICTION REQUIREMENT

Customer Service Window  
Randolph Building, Mail Stop Amendment  
401 Dulany Street  
Alexandria, VA 22314

Sir:

The present communication is responsive to the Official Action of May 9, 2005. Claims 1-16 presently appear in this case. All of the claims have been subject to a requirement for election of species. Prompt consideration on the merits of all of the claims now present in this case is hereby respectfully urged.

The examiner states that the present application contains claims directed to the following patenbably distinct species of the claimed invention: Species I: Figures 1-3; Species II: Figures 4-6; Species III: Figures 7-9, 12;

Species V; Figures 13-15 and Species VI Figures 16-19. The examiner has required applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The examiner states that he considers claim 1 to be generic. It is noted that the examiner has indicated that, upon the allowance of a generic claim, applicant will be entitled to consideration of claims to the allowance of generic claims, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

Applicant hereby elects the Species I; Figures 1-3, is believed that claims 1-5 and 13-16 read on the elected species.

In view of the fact that applicant believes that a generic claim might be allowable, applicant is not traversing on the grounds that the species are not patentably distinct. Applicant has not attempted to gather evidence showing the species to be obvious variants. It is noted for the record, however, that this election of species requirement represents an admission on the record on the part of the examiner that each of the species is patentably distinct and, if the

Appln. No. 10/656,505  
Amdt. Dated June 9, 2005  
Reply to Office Action of May 9, 2005

examiner finds a reference showing only one of the species,  
then he cannot reject any of the other species over that same  
reference. If the examiner learns of any evidence which  
causes him to change his mind as to the patentable  
distinctness of any of the species, then it is respectfully  
requested that the be reflected on the record.

Prompt consideration of all the claims reading on  
the elected species and, following allowance of the generic  
claim, all species covered by the generic claim is therefore  
earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
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